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KJ UG 1483

MEMORANDUM FOR: Legislative Counsel

SUBJECT : Proposed Amendment to Federal Employees' Compensation Act, as amended

REFERENCE : S. 1046, 83d Congress, 1st Session

1. The referenced bill proposes to amend section 5(a) of the Federal Employees' Compensation Act (Public Law 267, 64th Congress) as amended, by adding at the end thereof the following new paragraph:

"(22) Incurable disease: Proper and equitable compensation not to exceed \$5,000 shall, in addition to any other compensation payable under this Act, be awarded for any disease contracted on or after January 1, 1940, which seriously impairs the health of the employee, clearly resulted from his particular occupation, and is likely to continue during the remainder of his life. In determining the amount of such compensation the Secretary shall give due consideration to the extent of the pain, discomfort, inconvenience, or physical impairment resulting or likely to result from such disease, and to the probable effects of such disease upon the normal life expectancy of the employee."

2. In its present form, the Compensation Act provides compensation benefits for permanent partial disability based either upon qualification for an award based upon a schedule of specific disabilities or upon loss of wage earning capacity. The Act makes no provision for general functional disabilities, i.e., a percentage of permanent total disability as recognized by the Veterans Administration. This fact has been recognized by the Deputy Director, Bureau of Employees' Compensation in discussions of the subject with him.

3. The proposed amendment to the Compensation Act appears to fill this gap in the present legislation. Although the proposal does not approach the liberal VA benefits, it goes far to alleviate the hardship which is otherwise visited upon Government employees who, through no fault of their own, suffer from very real disabilities for which no compensatory benefit has been provided in the law.

4. This Office is aware of actual cases of Agency employees who have been permanently disabled yet do not qualify under existing legislation for permanent disability benefits. We are now con-

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ducting liaison with the Bureau of Employees' Compensation on a case in point. [redacted] the claimant involved suffered a compression fracture of the first lumbar vertebrae with neurological involvement of the sacral nerves and total loss of bladder function. The Bureau assumed the cost of medical care and disability compensation during the period of temporary total disability, and claimant's fractured vertebrae has healed to the point where he may return to full duty with the Agency. However, until recently he was required to wear an automatic bladder since he suffered from complete incontinence. His physician stated on 8 July 1953 that "this condition is permanent and incapacity is at the moment total, because of the incontinence." Although this condition has since improved, the claimant still suffers a percentage of permanent partial disability.

5. This Office by memorandum to the General Counsel, dated 19 August 1953 requested a legal opinion as to the legality of granting military-type benefits for employees injured in military-type occupations in this Agency. However, former policy recommendations by a Working Group on Career Benefits appear to have rendered the granting of a legal opinion on the questions posed inappropriate at this time.

6. Regardless of the position taken by the Agency with regard to our memorandum of 19 August, it is the position of this Office that CIA should actively support the referenced bill. The lack of complete disability benefits compatible with an individual's assignment in this Agency makes it all the more important that the Agency attempt to obtain the most complete civilian coverage possible for its employees, both civilian and quasi-military.

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GEORGE E. MELCON
Personnel Director

CONCUR:

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L. K. White
Acting Deputy Director
(Administration)

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